

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BRYAN McDONALD,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-08-567-M
)	
DAVID MILLER, et al.,)	
)	
Defendants.)	

ORDER

On March 30, 2009, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983 alleging that various private prison employees at the Lawton Correctional Facility violated plaintiff's Eighth Amendment rights. The Magistrate Judge recommends the Court grant defendants Larrel Harris, Captain Emmanuel, Dallas Butler and David Miller's motion for summary judgment based upon plaintiff's failure to exhaust his administrative remedies. In addition, the Magistrate Judge recommends that plaintiff's action be dismissed as to defendants Opal Pierre, Jerry Graham and Tanisha Vessel because plaintiff's failure to exhaust administrative remedies would likewise defeat his claim against these defendants. The Magistrate Judge further recommends that defendants' motion to strike plaintiff's amended complaint be granted. Finally, the Magistrate Judge recommends that plaintiff's motion to supplement his complaint and for orders relevant to the supplemental complaint be denied. The parties were advised of their right to object to the Report and Recommendation by April 20, 2009. A review of the court file reveals that no objection has been filed.

Upon de novo review, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by the Magistrate Judge on March 30, 2009;

- (2) GRANTS the motion for summary judgment of defendants Larrel Harris, Captain Emmanuel, Dallas Butler and David Miller [docket no. 24];
- (3) DISMISSES the claims against defendants Opal Pierre, Jerry Graham and Tanisha Vessel;
- (4) GRANTS the motion to strike [docket no. 32] plaintiff's amended complaint [docket no. 29, sequential pp. 1-7]; and
- (5) DENIES the motion to supplement the complaint [docket no. 33] and other motions relevant to the supplemental complaint [docket nos. 34 and 35].

IT IS SO ORDERED this 29th day of April, 2009.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE